

**STATEMENT  
OF  
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VICE CHAIRMAN  
COMMITTEE ON INDIAN AFFAIRS  
BEFORE THE  
JULY 30, 2003 HEARING  
ON  
S. 578, THE TRIBAL GOVERNMENT AMENDMENTS  
TO THE  
HOMELAND SECURITY ACT OF 2002**

The Committee on Indian Affairs meets this afternoon to receive testimony on S. 578, a bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of the Department of Homeland Security.

In the current Act, there is a definition of local governments, which as we all know are political subdivisions of the States.

But this definition of local government also includes Indian tribes – and so one of the objectives of S. 578 is to remove Indian tribes from the definition of local government and instead provide for a definition of tribal government.

Then, S. 578 also proposes to insert the term “tribal government” each place it is appropriate to do so in the Homeland Security Act.

Finally, based upon testimony received by this Committee last year from a

representative of the Department of Justice, S. 578 clarifies that for purposes of homeland security only, the Congress affirms and declares that the inherent sovereign authority of an Indian tribal government includes the authority to enforce and adjudicate violations of applicable criminal, civil, and regulatory laws committed by any person on land under the jurisdiction of the Indian tribal government.

It is this last section that appears to have generated some mischief by those who want to read the language as if it doesn't pertain to homeland security.

They cite a parade of horrors in which they allege tribal governments might engage under the authority of this Act – including “stripping several million U.S. citizens of their constitutional protections”, and they call it “a breathtaking example of racial tyranny”.

So I think it is important and prudent that we take a moment to understand the provision to which these outlandish comments are directed.

Acts of terrorism or activities which threaten the national security are violations of Federal law.

Put another way, if a person were to engage in an act of terrorism, they would be violating Federal law and they would be subject to prosecution in Federal court – not a tribal court.

Should tribal governments be able to stop, detain and arrest those who violate Federal law by committing acts of terrorism – until such time as Federal authorities can take over?

Or do those who reside in Indian country – be they Indian or non-Indian – want to have hours, and sometimes possibly even days go by, before a Federal law enforcement officer or the Federal Bureau of Investigation can travel from a city to a remote rural area in order to arrest those engaged in terrorist activities?

We don't have to reach far back in our memories to recall the events of September 11<sup>th</sup> and to know that in most instances, there won't be the luxury of time to respond in this fashion.

That is why those who are experienced in law enforcement believe, as we do, that tribal governments must have the authority to enforce Federal law until such time as Federal law enforcement officers can assume responsibility.

They will tell you that in many areas of Indian country, tribal governments are the only law enforcement presence and the only government capable of responding to threats of terrorism on a timely basis.

One of the commentators whose opposition to this bill is widely advertised suggests that this bill will place this country under attack from within.

I would remind one and all that in all the military actions and wars in which this nation has been engaged in the last century and the beginning of this century, more Native people of the United States, on a per capita basis, have volunteered to serve in the Armed Forces of our nation and placed themselves in harm's way than any other group of Americans.

So to suggest that tribal governments are terrorists or that citizens of this country

are subject to attack by Native people is to me one of the most outrageous assertions I have ever heard, and I hope this kind of inflammatory rhetoric will be seen for what it is.

Yesterday, the Committee held a full-day forum for tribal leaders and Federal agencies, and we learned a great deal about the critical infrastructure that is located in or near Indian country.

It is far more extensive than our records would have indicated, and so we are very gratified that this critically important information was shared with the Committee yesterday and that it will be made part of the official record of this hearing.

Members of Congress are all too familiar with the scare tactics that are sometimes employed in opposing legislation.

That is why the information from yesterday's forum and the testimony received today – both oral and written – will serve such an important role in helping us all to focus on the real threats at hand, because as the highest officials of our government have repeatedly stated – it is a matter of “when” another terrorist act is likely to take place, sadly, it is not a matter of “if”.

With that, I would like to call upon our first panel, and welcome them to the Committee.